

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

In Re:

**JESUS CRUZ MERCED  
YOLANDA MICHELLE ESTRADA BENITEZ  
XXX-XX-8122  
XXX-XX-4671**

**Case No.: 13-05220 (BKT)**

Chapter 13

Debtors

**TRUSTEE'S OBJECTION TO DEBTORS' MOTION  
REQUESTING COURT AUTHORITY TO INCUR IN CREDIT 11 USC SECTION 364 (d)  
AND RULE 4001-2 OF THE RULES OF BANKRUPTCY PROCEDURE, and MOTION  
REQUESTING ENTRY OF ORDER**

**TO THE HONORABLE COURT:**

**NOW COMES** José R. Carrión, Standing Chapter 13 Trustee (hereinafter, the "Trustee"), through the undersigned attorney, and very respectfully alleges and prays:

1. On February 4, 2015, Debtors filed a motion requesting authorization to incur in credit (refinance residual in vehicle loan). Docket No. 52
2. On said motion Debtor alleges that the agreement would refinance the residual and some post petition arrears owed to POPULAR AUTO.
3. Debtor has failed to disclose how many post petition payments are owed and the reasons behind said arrears. The Trustee notes that Debtor also incurred in post petition mortgage arrears. Debtor failed to disclose the reasons behind said arrears as well. The Trustee notes that both, mortgage and vehicle payments form part of the budget in Schedule J.

4. Also, under the terms of the proposed agreement with POPULAR AUTO, the vehicle payment appears to be less than the actual payment listed in Schedule J.

5. The Trustee notes that the payment amount included in the documents attached to Docket no. 52 do not include insurance. Debtor must disclose, and submit evidence of, the total amount of said loan payment in order to verify if Schedule J must be amended. Debtor might have more disposable income available to fund the plan; in which case amendments to Schedule J and the plan might be needed.

6. In light of the aforementioned, the Trustee objects Debtors' Motion Requesting Authorization to incur in credit until Debtor discloses the reasons behind the arrears, in both the mortgage and vehicle loans, and the complete amount of vehicle payment under the proposed agreement with POPULAR AUTO.

**WHEREFORE,** the Trustee hereby most respectfully requests that this Honorable Court takes note of the aforementioned and enter an Order requesting Debtors to disclose the reasons behind the arrears, in both the mortgage and vehicle loans, and the complete amount of vehicle payment under the proposed agreement with POPULAR AUTO.

**NOTICE IN COMPLIANCE WITH LBR 9013-1 (h)**

Claimants and Parties in Interest please be advised that: within 14 days after service as evidenced by the certification, and an additional 3 days pursuant to Fed. R. Bank. P. 9006 (f) if you were served by mail, any party against whom this

motion has been served, or any other party to the action who objects to the relief sought herein, shall file and serve an objection or other appropriate response to this paper with the Clerk's Office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the motion will be deemed unopposed and may be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, in interest of justice requires otherwise. If you file a timely response, the Court may – in its discretion – schedule a hearing.

**AFFIDAVIT OF MILITARY SERVICE PURSUANT TO SECTION 201(b)(1) OF THE SERVICEMEN'S CIVIL RELIEF ACT OF 2003:** I hereby certify that according to information revised at the Department of Defense Manpower Data Center (DMDC) Internet Website, the Debtor(s) is (are) NOT in active duty or under call to active duty as member(s) of the army, navy, or Air Forces of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

**CERTIFICATE OF SERVICE:** The Chapter 13 Trustee certifies a copy of this motion has been served by regular U.S. Mail on this same date to: the DEBTOR(s) and her/his/their attorney and all Creditors and Parties in Interest to their respective addresses of record as they appear in the attached master address list to the address of record, if any are not registered CM/ECF system participants.

In San Juan, Puerto Rico, this 23<sup>rd</sup> day of February, 2015.

**/S/ Nannette M. Godreau Vázquez**  
**Staff Attorney**  
USDC-PR No. 227310

**JOSÉ R. CARRIÓN-MORALES**  
CHAPTER 13 TRUSTEE  
P.O. Box 9023884

San Juan, P.R. 00902-3884  
Tel (787) 977-3535 Fax (787) 977-3550



## Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: CRUZ MERCED

First Name: JESUS

Middle Name:

Active Duty Status As Of: Feb-23-2015

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
4800 Mark Center Drive, Suite 04E25  
Arlington, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenseink.mil" URL: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

### More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

### Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: 53LA8442A17A7E0



## Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: ESTRADA BENITEZ

First Name: YOLANDA MICHELLE

Middle Name:

Active Duty Status As Of: Feb-23-2015

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
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*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
4800 Mark Center Drive, Suite 04E25  
Arlington, VA 22350

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Certificate ID: 43SAY442S17ALF0



13-05220-BKT

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail to the parties listed below:

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PO BOX 9023884, OLD SAN JUAN STATION  
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SAN JUAN, PR 00918-1454

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SAN JUAN, PR 00918-1454

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, PR 00000

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JOSE MERCADO  
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CAGUAS, PR 00725

DATED: February 23, 2015

Nilda Muniz

OFFICE OF THE CHAPTER 13 TRUSTEE